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In Re: )  
 ) AU Docket 12-239  
Auction No. 94 )  
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**Comments of Fletcher, Heald & Hildreth, P.L.C.**

Fletcher, Heald & Hildreth, P.L.C. submits these brief comments in order to respectfully urge the Commission to schedule the start date of Auction No. 94 on April 8, 2013. Setting the auction date on April 8, 2013, will allow bidders to focus upon and participate in the auction subsequent to a series of events between March 26 and April 8. Events occurring between March 26 and April 8 include, FM radio renewal application deadlines, TV renewal application deadlines, the filing deadline for Form FCC 499-A, the closing of financial markets on March 29, state holidays on March 29, the Passover<sup>1</sup> holiday and Holy Week.

Fletcher, Heald & Hildreth, P.L.C. is a law firm that has provided regulatory and legal services to clients for more than seventy five years. The firm currently represents broadcast licensees, wireless carriers, equipment manufacturers and various other clients from all 50 states and each of the US territories. Fletcher, Heald & Hildreth, P.L.C. submits these brief comments to bring a scheduling matter to the attention of the Bureaus.

The Bureaus have announced that Auction No. 94 is scheduled to commence on March 26, 2013.<sup>2</sup> Starting the auction on that date will conflict with numerous Commission deadlines and non-Commission events. The conflict can be avoided by slightly adjusting the start date of the auction to April 8, 2013. No harm will occur by rescheduling the start date of the auction and the public good will be served by allowing bidders - - who may increase in number if the conflicts are removed - - to participate fully after other events and deadlines have passed.

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<sup>1</sup> Although not addressed in the main text of these comments, Passover begins on March 26, 2013 and will continue until the following week. So too, Holy Week - - the most important period of the Christian year - - is the week of March 26, 2013, until April 1, 2013. The conflict of these holidays with the auction may discourage potential bidders from participating and may result in an auction with a reduced number of bidders and lower net winning bids.

<sup>2</sup> Auction of FM Broadcast Construction Permits Scheduled for March 26, 2013, *Public Notice*, DA 12-1411, 77 FR 60690 (WTB & MB Sep. 11, 2012).

### Commission Deadlines

A March auction date will directly conflict with Media Bureau renewal dates and Wireline Competition Bureau reporting dates. The Bureaus have proposed to auction 117 FM licenses in Auction No. 94; more than a third of the licenses to be auctioned are for markets in Texas and Oklahoma. Unfortunately, the renewal deadline for Texas audio service licenses coincides with the auction and falls on April 1, 2013. The deadline for television renewals in Indiana, Kentucky and Tennessee also falls on April 1. Adjusting the auction start date to April 8, 2013, will moderate the workload of Audio Division staff who may be monitoring the auction as well as addressing any pre-deadline renewal inquiries. In addition, adjusting the auction start date will allow bidders to focus their attention on the auction - particularly current licensees from Texas who will likely be bidding on the Texas permits which represent a substantial number of permits in the auction.

The Commission has established the due date for its annual Universal Service reporting worksheet (Form 499-A) as April 1. Most wireless carriers, wireline operators and other providers are required to complete and file Form 499-A. In previous years, the Wireline Competition Bureau has made the form available only a few weeks before the deadline<sup>3</sup>. The very short window within which reporting entities must complete the Form 499-A directly conflicts with the start of Auction No. 94. Adjusting the auction start date will allow potential bidders to complete their once a year 499-A filings and focus on the auction.

### Non-Commission Events

By its very nature, the auction will require bidders to assess their financial situation and wherewithal on an ongoing and continuing basis. As minimum bids increase, so too will the requirement for bidders to secure capital. Unfortunately, if the auction begins on March 26, 2013, the capital markets will be closed three days later. Bidders may be placed in a precarious situation or may be forced to unnecessarily withdraw if they are unable to confirm funding. All financial markets will be closed on Good Friday, March 29, 2013.<sup>4</sup> In addition to major financial markets being closed, many state governments and state chartered banks will close on Friday, March 29, 2013. The public good and the auction process is best served when bidders are able to make informed decisions regarding their assets and strategies.

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<sup>3</sup> See, Wireline Competition Bureau Releases 2012 Annual Telecommunications Reporting Worksheet and Accompanying Instructions, *Public Notice*, DA 12-337, 27 FCC Rcd 2271 (WCB 2012).

<sup>4</sup> NYSE, NYSE MKT, NYSE Amex Options, NYSE Arca, NYSE Arca Options, and NYSE Bonds will be closed, see <http://www.nyx.com/en/holidays-and-hours/nyse> as well as NASDAQ, see [www.nasdaqtrader.com/Trader.aspx?id=Calendar](http://www.nasdaqtrader.com/Trader.aspx?id=Calendar).

WHEREFORE, good cause having been shown that the public interest will be served by adjusting the starting date of Auction No. 94 to allow a broad group of bidders to participate and to remove any conflicts with other Commission deadlines, it is respectfully submitted that the auction start date should be adjusted to April 8, 2013.

Respectfully submitted,

October 10, 2012

/s/ Raymond J. Quianzon  
Raymond J. Quianzon  
Fletcher, Heald & Hildreth, P.L.C.